

Appl. No. 10/088,701
Amdt. dated September 8, 2004
Reply to Office Action of 3-08-2004
Attorney Docket No. 702-020501

REMARKS

Claims 20-23, 26, 27 and 34-36 remain in this application.

Claims 20, 21, 22, 26, 34 and 35 have been amended. Claims 24, 25 and 28-33 have been withdrawn pursuant to a restriction requirement, and claims 23, 27 and 36 remain unchanged. No new subject matter is believed to have been added by this Amendment.

In Section No. 3 of the Office Action, the Examiner indicates that the documents submitted in the IDS (Paper No. 8) have been considered. However, the Office Action did not include an initialed copy of Form PTO-1449 submitted on August 22, 2002, and the Applicant hereby requests the Examiner to forward such document at his earliest convenience.

In Section Nos. 4-7 of the Office Action, the Examiner indicates the application contains claims directed to more than one species of the generic invention and, as a result, the Applicant hereby provisionally elects with traverse to prosecute the invention of Species A, which is directed to claims 20-23, 26, 27 and 34-36. The remaining claims are withdrawn from further consideration.

The Applicant respectfully requests that this restriction be withdrawn for the following reasons.

The embodiment of Species A, including Figs. 1-6, is addressed by claims 20-23, 26-27 and 34-36.

The embodiment of Species B, including Figs. 7-9, is addressed by claims 24-29 and 33-36.

The only difference between Species A and Species B is that in Figure 3 the device is drawn in assembled form in which the forks 50 with the foldable wheels are

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clearly visible through the cut-out, whereas in Fig. 7 such wheels are hidden under the forks 50. Therefore, in the minimum, Species A should be combined with Species B for this examination.

Furthermore, the embodiment of Species C, including Figs. 10-12, is addressed by claims 21, 26, 27 and 30-32, which are all dependent from independent claim 20. For these reasons, the Applicant believes that all of the species relate to a single general inventive concept and should be examined together.

In Section No. 8 of the Office Action, the Examiner objects to the drawings under 37 C.F.R. §1.83(a) and, in particular, indicating that the "fixing means" of claim 21 and the "source of energy" of claim 26 must be shown or the features canceled from the claims. Claim 21 has been amended to specify a "locking mechanism" in place of "fixing means". The locking mechanism is discussed on page 8, lines 1 and 2 of the specification. Additionally, the term "source of energy" in claim 26 has been replaced with the term "device" which, in one example, may be the hydraulic piston rod mechanism 26 discussed on page 4, lines 26-28 of the specification. In light of these claim changes, the Applicant does not believe that it is necessary to make any changes to the drawings.

In Section No. 9 of the Office Action, the Examiner objects to the disclosure because references to the claims found on page 2, lines 23 through 26 of the specification is improper. The text, which appears to be on page 2, lines 22-26, has been canceled.

In Section No. 10 of the Office Action, the Examiner objects to claims 20-23, 26-27 and 34-36 because the language in claim 1 stating "busy location which is difficult to access" is not defined in the specification. This language, which actually appears in claim 20, lines 2 and 3, has been canceled. However, claims 34-36 do not
{W0141095.1}

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Attorney Docket No. 702-020501

depend from independent claim 20, and for that reason the Applicant does not believe that this objection to the claims 34-36 is applicable.

In Section No. 10 of the Office Action, the Examiner also indicates that the term "smoothly accessed" found in claim 34, line 4, is unclear. The phrase "smoothly accessed from" has been replaced with the phrase "substantially flush with" in claim 34.

In Section No. 10 of the Office Action, the Examiner indicates that the terms "transporting means" and "transporter" in claim 34 should be clarified. The term "the carrier" has been substituted for "carrier means".

In Section No. 13 of the Office Action, the Examiner rejects claims 20, 23, 27 and 34-36 under 35 U.S.C. §102(b) as being anticipated by the teaching of United States Patent No. 3,228,542 to Achammer ('the Achammer patent'). The Achammer patent is directed to an apparatus for the conveyance of standard-size objects and has, as stated in column 4, lines 11-23, a hoisting stacker 21 with a platform 19 forming the loading area 2, which is provided with recesses 20 at its rear wall 3'. These recesses extend longitudinally of the transport vehicle 1 and support the fork arms 40 of the hoisting stacker 21. As illustrated in Figure 8, the recesses 20 are shown in phantom and are essentially slots which extend within the platform 19. The only way the fork arms 40 may be located within the recesses 20 is to move them in a horizontal plane into the recesses 20. There is no vertical access to these recesses 20. As a result, the fork arms 40 when mounted within the recesses 20 do not form a part of the top surface of the platform 19. Independent claim 20, on the other hand, includes a floor which is provided with a recess extending substantially vertically so that the support platform corresponds to a peripheral profile of the recess and at least a part of the upper surface of the support platform serves as a part of the floor of the material carrier. For these reasons, the Applicant does not believe that claim 20 as amended is either anticipated

by or made obvious from the teaching of the Achammer patent and is therefore believed to be patentably distinct over the prior art of record. By way of their dependency upon what is believed to be patentably distinct independent claim 20, dependent claims 23 and 27 are themselves believed to be patentably distinct.

Additionally, claim 34 has been amended to specify that the top side of a support platform is substantially flush with the floor of the loading spaces. Although the method in accordance with this claim does not require the floor of the loading spaces to have a vertically open recess, the support platform must be substantially flush with the floor of the loading spaces and, as a result, may function as a floor. The Achammer patent, as previously mentioned, includes a hoisting stacker 21 having a platform 19 which is provided with recesses 20 at its rear wall 3'. Fork arms 40 of the hoisting stacker are inserted within these recesses, and as illustrated in Figure 8, these recesses are enclosed, thereby preventing the fork arms 40 from providing a surface which is substantially flush with the floor of the loading spaces. For this reason, the Applicant believes that claim 34 is neither anticipated by nor made obvious from the teaching of the Achammer patent.

In a similar fashion, claim 35 is directed to a method wherein the support platform has a substantially flush connection with the surface of the cargo container of the material carrier, thereby permitting goods to be unloaded on the platform of the transporter over a flush connection. Once again, this feature is neither taught nor suggested by the Achammer patent and for these reasons independent claim 35 is believed to be patentably distinct over the prior art of record. By way of its dependence upon what is believed to be patentably distinct independent claim 35, dependent claim 36 is itself believed to be patentably distinct.

In Section No. 14 of the Office Action, the Examiner rejects claim 21 under 35 U.S.C. §103(a) as being obvious from the teaching of the Achammer patent in view of the teaching of United States Patent No. 4,061,237 to Austin et al. ("the Austin patent"). The Austin patent is directed to a forklift truck wherein the placement of forks of a forklift occur on a loading space of a truck and not into a recess in the bottom of the loading space of a truck. Furthermore, in order to lock the fork, the Austin patent discloses stirrups mounted on top of the raised platform to receive the fork tines of the forklift truck. This arrangement has two distinct disadvantages over the embodiment of claim 21 of the present application. The first disadvantage is that either the stirrups stick out of the floor, which is impractical since the process includes moving goods over the floor, or the stirrups need to be placed and removed constantly. The second disadvantage is that the loading space of the truck, where the fork of the forklift and the stirrups are present when the forklift truck is in engagement with the raised platform, is in use and not ready for storing any goods. Therefore, the loading capacity of the truck with the raised platform is diminished. For these reasons, the Applicant does not believe that claim 21 is made obvious by the teaching of the Achammer patent in view of the teaching of the Austin patent and is therefore believed to be patentably distinct over the prior art of record. Furthermore, by way of its dependence upon what is believed to be patentably distinct independent claim 20, dependent claim 21 is itself believed to be patentably distinct.

In Section No. 15 of the Office Action, the Examiner rejects claim 22 under 35 U.S.C. §103(a) as being obvious from the teaching of the Achammer patent in view of the teaching of United States Patent No. 4,460,064 to Lutz et al. ("the Lutz patent"). Claim 22 has been amended to specify that the wheel has a diameter substantially larger than the thickness of the support platform. Support for this language is found in {W0141095.1}

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Figures 1 and 3 and, furthermore, is found on page 4, lines 19-23 of the specification. To the extent the size of the rollers 12 of the present application is comparable to the wheels 34 of Lutz, the foldaway wheels 20 of the subject application have a substantially larger diameter. An advantage of this substantially larger diameter of foldaway wheels 20 is that irregularities in the surface to be driven on can be more easily overcome when using the large foldaway wheels 20. This is especially true relative to the small size of the rollers 12 of the present application and the wheels 34 disclosed in the Lutz patent. For these reasons, the Applicant does not believe that claim 22 is either taught or suggested by the Achammer patent in view of the Lutz patent. Furthermore, by way of its dependence upon what is believed to be patentably distinct independent claim 20, dependent claim 22 is itself believed to be patentably distinct.

Reconsideration and allowance of claims 20-23, 26-27 and 34-36 are respectfully requested.

Respectfully submitted,

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